

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	2:06-cr-00017
v.)	2:08-cv-0483
)	
SEKOU FREDERICK BROOKS ,)	
)	
Defendant.)	

MEMORANDUM ORDER

AND NOW, this 14th day of April, 2008, upon receipt, review and in depth consideration of Sekou Frederick Brooks ("Brooks"), *Pro Se* MOTION TO VACATE, SET ASIDE, OR CORRECT A SENTENCE UNDER 28 U.S.C. §2255 (Document No. 33), the GOVERNMENT RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE UNDER 28 USC §2255 (Document No. 34) in opposition thereto and the entire record of this action, it is hereby **ORDERED** that Brooks' Motion is **DENIED AND DISMISSED WITH PREJUDICE** as time-barred by not having been filed within one (1) year of the date when the Judgment of Conviction became final pursuant to Title 28, United States Code, §2255 and for failure to allege having exercised and exhausted his administrative remedy rights with the Bureau of Prisons.

An evidentiary hearing will not be conducted as the Court finds that the record conclusively demonstrates that Brooks is not entitled to the relief requested. Being without jurisdiction to do so, the Court declines to construe Brooks' Motion as a matter arising under Title 28, United States Code, §2241. Further, the Court will not issue a certificate of

appealability as the Court finds that Brooks has not substantially demonstrated the denial of a constitutional right and is therefore not entitled to appellate review of this Order.

The Clerk shall docket this case closed.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

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